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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,919	02/21/2006	Zaoling Shao	CN 020016	6591
24737 7590 07/29/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
LAI, MICHAEL C				
ART UNIT		PAPER NUMBER		
2157				
MAIL DATE		DELIVERY MODE		
07/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/536,919

Applicant(s)

SHAO ET AL.

Examiner

MICHAEL C. LAI

Art Unit

2157

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ario Etienne/
Supervisory Patent Examiner, Art Unit 2157

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's argument, see page 11, with respect to "[a] communication gateway won't be needed if the personal computer 101 and the cell phone 108 belong to the same network", is not persuasive. According to Microsoft Computer Dictionary, Fifth Edition, a gateway is "A device that connects networks using different communications protocols so that information can be passed from one to the other. A gateway both transfers information and converts it to a form compatible with the protocols used by the receiving network.". In the reference to Caloud, the communications gateway 128 is used to bridge the Internet network 106, to which the personal computer 101 belongs, and the Cell network 118, to which the cell phone 108 belongs (see FIG. 1). As such, "the gateway won't be needed if the personal computer 101 and the cell phone 108 belong to the same network". Applicant's argument, see page 12, with respect to "the Final Office Action fails to make a prima facie case of anticipation because Caloud does not satisfy MPEP section 2131 as an anticipatory reference", is not persuasive. Caloud teaches every element of the claimed invention as identified in the office action. Therefore the reference to Caloud satisfies MPEP section 2131 as an anticipatory reference. Applicant's argument, see page 12, with respect to "In fact, Caloud teaches away from a direct communication between the personal computer and the cell phone such that "[t]he gateway 128 is thus in a position to filter messages addressed to the terminal 108 and thus avoid undesirable messages.", is not persuasive. The reference to Caloud is directed to "a method for the addressing of a mobile terminal" including address translation between IMSI/MSISDN and IP address (see FIG. 1 Tables 127 and 133, and column 8, lines 33-53). In FIG. 2, the resolution server 119 accepts connection invitations according to the SIP protocol. These invitations are transmitted, after the resolution of the SIP address, at the mobile terminal 108 in the form of a short message. The mobile terminal 108 accepts or rejects the connection request. In the event of acceptance, the mobile terminal 108 makes a request for the allocation of communications means to the gateway 128 (see abstract). As one can see in FIG. 2, after connection is complete, all traffic going from the personal computer 101 to the mobile terminal 108 via the gateway 128 without going through the resolution server 119. In response to applicant's arguments, the recitation "wireless network system that enables direct wireless delivery of a multimedia message from a first multimedia messaging service (MMS) user agent to a second MMS user agent" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hiraio*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).